

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )  
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 Joint Application by BellSouth Corporation, )  
 BellSouth Telecommunications Inc., and )  
 BellSouth Long Distance, Inc. for Provision of )  
 In-Region, InterLATA Services In Georgia and )  
 Louisiana )

CC Docket No. 02-35 /

**COMMENTS OF**  
**ALLEGIANCE TELECOM OF GEORGIA, INC.**

Allegiance Telecom of Georgia, Inc. ("Allegiance"), hereby files its Comments in opposition to the BellSouth companies' ("BellSouth") Application for Section 271 Authority for Georgia ("Application"). BellSouth is currently proposing that the Georgia Public Service Commission adopt revised unbundled network element ("UNE") rates that are significantly higher than the "cost-based" rates upon which BellSouth bases its Section 271 Application. If BellSouth successfully attains these rates, it will be substantially out of compliance with the Telecommunications Act's pricing standard and this Commission's Total Element Long Run Incremental Cost ("TELRIC") standard for UNEs. In addition, BellSouth's failure to adequately update Customer Service Records to accurately reflect the status of DSL lines, and its technicians' misrepresentations to Allegiance customers about the presence of DSL lines, is depriving Allegiance of non-discriminatory access to UNEs. Finally, BellSouth's requirement that CLECs wishing to convert special access DS1 loops to UNE pricing must submit (1) an order to disconnect the special access line and (2) a second order to install a UNE in its place is

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discriminatory and in violation of the Commission's UNE remand order. The Commission should deny BellSouth's Application.

**I. BELLSOUTH DOES NOT SATISFY CHECKLIST ITEM 2 BECAUSE IT IS IN THE PROCESS OF SEEKING MASSIVE INCREASES IN THE UNE RATES UPON WHICH IT BASES ITS APPLICATION**

BellSouth asserts that the rates that the Georgia Public Service Commission ("GPSC") adopted for competitors' purchase of BellSouth UNEs are the "full suite of TELRIC [-compliant] rates" upon which it seeks this Commission's Section 271 approval.<sup>1</sup> These rates, the result of multiple GPSC dockets, are contained within BellSouth's GPSC-approved Statement of General Terms and Conditions.<sup>2</sup> While BellSouth's application is pending before this Commission, the GPSC is currently conducting a cost proceeding to thoroughly review all of BellSouth's UNE rates in Docket No. 14361-U. BellSouth is using that case as a forum to whipsaw its competitors. On one hand, it seeks this Commission's Section 271 approval based on UNE rates set to date. On the other hand, BellSouth is proposing massive rate increases of up to 444% over rates it alleges are TELRIC-compliant. BellSouth cannot have it both ways.

The GPSC will not complete the cost case until well after this Commission has ruled upon this 271 Application. This is the Commission's one and only opportunity to review the propriety of Georgia UNE rates prior to Section 271 approval. Because BellSouth is currently in the process of seeking complete replacement of those rates, the Commission should not rely on them in evaluating whether BellSouth has met the

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<sup>1</sup> Brief in Support of Application by BellSouth for Provision of In-Region, InterLATA Services in Georgia and Louisiana, CC Docket No. 01-277, at 40 (Oct. 2, 2001). BellSouth withdrew its initial Georgia 271 Application. In this second Application, BellSouth adopts *in toto* the filings in support of its first Application. Supplemental Brief in Support of Application by BellSouth for Provision of In-Region, InterLATA Services in Georgia and Louisiana, CC Docket No. 02-35, at 1 (Feb. 14, 2002).

<sup>2</sup> The Georgia SGAT is an attachment to BellSouth's initial application in CC Docket No. 01-277.

competitive checklist. Indeed, given BellSouth's assertion in both its first and second Georgia 271 Applications that all of its current rates are TELRIC-compliant, BellSouth's contemporaneous effort to massively increase those rates once the Application is granted calls into question its ability to remain in compliance with Section 271.<sup>3</sup> Consequently, this Commission cannot make a finding that BellSouth's UNE prices are TELRIC-compliant.

BellSouth filed cost studies in support of its proposed thorough revision of UNE rates at the GPSC on October 1, 2001, the day before it filed its first Section 271 Application. The rate hearing was to have been held in December 2001, but was delayed. BellSouth refiled certain rate proposals on February 19, 2002. The hearing is currently scheduled to be held on May 6-8, 2002. The case will not be briefed or submitted for decision until after this Commission's May 15 deadline to rule on BellSouth's 271 Application. A copy of BellSouth's most recent master list of proposed UNE rates is appended as Exhibit A.

The new rates that BellSouth proposes are outrageous.<sup>4</sup> For example, the existing Georgia non-recurring rate for installation of the first DS3 ordered electronically is \$639.50. In Docket No. 14361-U, BellSouth proposes the rate be raised to \$3,476.50, an increase of 444% over a rate BellSouth asserts is already TELRIC-compliant. Similarly, BellSouth proposes a 50% increase in the non-recurring charge for dedicated DS1 interoffice transport. BellSouth proposes to increase the monthly recurring charge for DS1 loops in Zone 1 (Atlanta) from \$55.53 to \$82.36, an increase of 48%. Such an

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<sup>3</sup> Allegiance does not concede that BellSouth's Georgia UNE rates are TELRIC-compliant.

<sup>4</sup> A sample of BellSouth's proposed UNE rate increases in Docket No. 14361-U is summarized in Exhibit B.

increase in the DS1 rate will negatively impact broadband deployment by competitive telecommunications carriers.

BellSouth also proposes mammoth rate increases at lower bandwidths as well. BellSouth offers two installation options for its two-wire voice grade analog loops, Service Levels ("SL") 1 & 2.<sup>5</sup> BellSouth proposes to increase the non-recurring rate for the first SL1 loop ordered electronically from \$42.54 to \$79.35, an increase of 87% over the current rate. BellSouth also seeks to increase the basic monthly recurring charge of the Zone 1 two-wire loop from \$14.21 to \$15.26, or a 7% increase. For SL2 loops, BellSouth proposes to increase the non-recurring rate for the first loop ordered electronically from \$104.17 to \$158.34, an increase of 52%. BellSouth cannot have it both ways. It cannot get this Commission's blessing on a set of rates that, if BellSouth has anything to say about it, might increase as much as 444% by the end of this year. The Commission must be assured that Georgia markets will remain open after grant of the Application and that BellSouth does not undermine its Checklist compliance.<sup>6</sup> BellSouth must either commit to seek no rate increases beyond current levels for at least a year after its Application is granted, or it must withdraw this Application until the GPSC's cost case is completed and the Commission can review the UNE rates that BellSouth will actually charge its competitors.

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<sup>5</sup> According to BellSouth, SL1 loops are non-designed loops without test points, order coordination, or engineering information/circuit make-up data. SL2 loops are designed loops with test points and order coordination.

<sup>6</sup> Memorandum Opinion and Order, *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, FCC 01-130, at ¶ 233 (rel. Apr. 16, 2001); Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, FCC 01-29, CC Docket No. 00-217, at ¶ 267 (rel. Jan. 22, 2001).

**II. BELLSOUTH DOES NOT COMPLY WITH CHECKLIST ITEM 2 DUE TO PRE-ORDERING PROBLEMS ASSOCIATED WITH THE PRESENCE OR ABSENCE OF DSL LINES ON CUSTOMER SERVICE RECORDS**

The Commission should also deny BellSouth's Application because it fails to timely and completely update Customer Service Records ("CSRs") to correctly indicate the status of DSL lines. As a result, BellSouth is depriving Allegiance of non-discriminatory access to UNEs as well as operations support services.

Beginning in October 2001, after BellSouth filed its first Georgia 271 Application, Allegiance experienced a series of new pre-ordering problems in accessing correct information regarding the telephone lines of BellSouth customers who had elected to switch their service to Allegiance. These problems are all associated with the erroneous designation of DSL lines on a CSR, difficulties in getting DSL lines reassigned, and/or BellSouth's failure to timely update its CSRs to reflect the presence of DSL lines.<sup>7</sup>

**A. BellSouth erroneously designates some lines as DSL lines, resulting in pre-ordering and provisioning delays.**

Allegiance has experienced several instances in which the BellSouth CSR erroneously indicates that an end user has a DSL line and an analog loop order for that line will not be accepted by BellSouth. In such cases, Allegiance has had difficulty in getting BellSouth to remove the designation of the DSL line from the CSR. BellSouth must update the CSR before it will accept an order to move the line. Where an analog loop is erroneously designated as being used for DSL service, Allegiance experiences delays of as much as two months before BellSouth will accept the order for processing.

During this time BellSouth rejects or seeks clarification of the order, Allegiance attempts to have the DSL designation removed from the CSR, and once removed, BellSouth requires Allegiance to supplement or resubmit the order. Such delays often result in the customer canceling the order for Allegiance service.

**B. BellSouth lacks a timely and reliable process to reassign or discontinue a DSL line.**

Occasionally, a multi-line BellSouth customer wishes to port analog lines to Allegiance but to keep an existing DSL line with BellSouth. Oftentimes, the telephone number associated with the DSL service is the billing telephone number for an entire hunt group. In such a case, the DSL service must be moved to a different line or assigned a different telephone number before the port can take place. BellSouth does not promptly and reliably reassign the DSL service to a different line or telephone number. When BellSouth does reassign the DSL service, it does not usually update the CSR in a timely manner to reflect the change, which further delays the Allegiance customer's order. Similarly, if a customer wishes to cancel a BellSouth DSL service and port the telephone number as an analog line to Allegiance, BellSouth does not timely update the CSR or change the USOC code associated with the line. Again, delays in updating the customer information so that Allegiance can obtain a "clean" CSR often result in the customer canceling the Allegiance order.

**III. BELLSOUTH DOES NOT COMPLY WITH CHECKLIST ITEM 2 BECAUSE ITS TECHNICIANS DISPARAGE ALLEGIANCE SERVICES OR MISINFORM ALLEGIANCE CUSTOMERS, ESPECIALLY WITH RESPECT TO DSL LINES, DEPRIVING ALLEGIANCE OF NON-DISCRIMINATORY ACCESS TO UNBUNDLED NETWORK ELEMENTS**

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<sup>7</sup> The problems discussed that are associated with DSL are supported by the Declaration of Doreen Best, Exhibit C. The purchase order numbers for each type of problem identified accompany Ms. Best's Declaration.

BellSouth technicians dispatched to Allegiance customer premises for installation or repair have disparaged Allegiance's services and misinformed the customer about the services being installed. In particular, BellSouth technicians routinely tell CLEC customers that they are there to install a DSL line any time a high capacity service is to be provisioned, regardless of what service the customer ordered from the CLEC.<sup>8</sup> Such misinformation causes customers confusion and mistrust. Allegiance has been the victim of such conduct in the following cases:<sup>9</sup>

- September 12, 2001 – A prospective Allegiance customer canceled the contract before the cutover. The BellSouth technician dispatched to the customer premise to repair an existing BellSouth fax line told the customer that the problem with the fax line was due to an upcoming cutover of three lines to Allegiance.
- September 25, 2001 – A BellSouth technician was dispatched to a new Allegiance customer customer premise to install a PRI line. The technician told the customer that he was there to install a *DSL line*. Because the customer had not ordered DSL service from Allegiance, the customer refused the installation.
- October 2, 2001 – A BellSouth technician was dispatched to an Allegiance customer premises to upgrade the existing service to a high capacity T-1 line. The technician told the customer that he was there to install a *DSL line*. The customer expressed concern that Allegiance did not process the service order correctly.

As discussed in this and the preceding section, BellSouth is purposely hampering its competitors' efforts to gain customers by slow-rolling pre-ordering transactions

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<sup>8</sup> Mpower commented on BellSouth's first Georgia 271 Application that BellSouth places internal USOC codes on customer CSRs to indicate that a customer may be a good candidate for ADSL, even though the customer does not subscribe to that specific service, leading to customer confusion and provisioning delays. Comments of Mpower Communications Corp., Network Plus, Inc., and Madison River Communications, LLC, CC Docket No. 01-277, at 38 (Oct. 22, 2001) ("Mpower Comments").

<sup>9</sup> Allegiance brought these incidents to the Commission's attention during consideration of BellSouth first Georgia 271 Application. Reply Comments of Allegiance Telecom of Georgia, Inc., CC Docket No. 01-277, at 10-11 (Nov. 13, 2001). The incidents were supported by the Declaration of Burton Goldi, Exhibit 2 to Allegiance's Reply Comments. Allegiance incorporates that Declaration herein by reference. Allegiance previously brought these examples to the attention of BellSouth and the Georgia Commission, and identified the customers to BellSouth. Other commenters on BellSouth's first Georgia 271 Application raised the same issues. See Mpower Comments, at 27-28 ("BellSouth's technical and customer service personnel frequently disparage CLECs with inflammatory statements, some of which are completely false,

associated with the presence or absence of DSL lines, or through misrepresentation at the customer premises. Conduct such as this is not consistent with Section 271 Checklist compliance.

**IV. BELLSOUTH DOES NOT SATISFY CHECKLIST ITEM 2 DUE TO ITS REFUSAL TO CONVERT SPECIAL ACCESS DS1 LOOPS TO UNE PRICING AS REQUIRED**

BellSouth has not complied with Checklist Item 2 by virtue of its refusal to convert special access circuits to individual UNEs in compliance with the Act and the Commission's rules. In response to Allegiance's request to convert numerous special access DS1 loops to UNE pricing, BellSouth has insisted that Allegiance submit disconnect orders for the existing circuits and new orders for UNEs to replace the existing circuits, creating the very real possibility that Allegiance's customers will be taken completely out of service with no guarantees that there will even be UNE facilities available to replace the special access circuits. BellSouth's position that Allegiance jump through such hoops and risk its customers' loss of service for what should be no more than a billing change is inconsistent with its Telecommunications Act obligations.

On July 26, 2001, Allegiance submitted a request to BellSouth to convert a number of special access DS1 loops to UNE pricing. BellSouth has refused to treat the conversion as the simple billing change that it is, and has instead told Allegiance that it must (1) place new orders for UNE DS1 loops to replace the existing special access circuits; (2) place disconnect orders for the existing special access circuits; and (3) migrate the traffic from the special access circuits to the new UNE loops.

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while other statements are, ironically, true only because of the poor service that BellSouth provides to CLECs.”).



**A. BellSouth's refusal has a significant financial impact on Allegiance and is contrary to law.**

The DS1 loops are connected to Allegiance end user customers and are used for local exchange traffic. BellSouth is required to offer such loops on an unbundled basis at TELRIC pricing pursuant to Section 251(c)(3) of the Communications Act. Consistent with the Commission's directive to incumbent LECs to implement simple processes to convert special access circuits to unbundled loop-transport (EEL) combinations without delay,<sup>10</sup> BellSouth cannot be deemed in compliance with the Checklist until it implements similar processes to convert special access circuits to UNE transport combinations without delay. As the Commission has stated, "the conversion should not require the special access circuit to be disconnected and reconnected because only the billing information or other administrative information associated with the circuit will change when a conversion is requested."<sup>11</sup> BellSouth's requirement that the existing special access circuits be disconnected and replaced with newly ordered UNEs is not only needless and needlessly expensive, it also creates the very real possibility that customers will lose service when the traffic is migrated during the conversion. Such requirements are not consistent with Section 271 compliance.

**V. CONCLUSION**

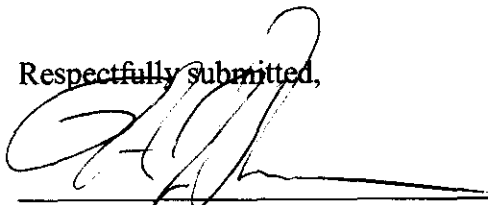
BellSouth has not demonstrated Section 271 compliance. First, it proposes enormous UNE rate increases that are inherently in conflict with the assertedly TELRIC-based rates upon which it bases this Application. BellSouth is attempting to gain these rate increases just as soon as this Commission concludes this proceeding. Second, BellSouth needlessly

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<sup>10</sup> Supplemental Order Clarification, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 00-183, at ¶ 30 (rel. June 2, 2002).

delays pre-ordering transactions associated with the presence or absence of DSL lines and misrepresents to Allegiance customers that it is installing a service that the customer never ordered. Third, BellSouth refuses to convert special access circuits to individual UNEs in compliance with the Telecommunications Act or the Commission's rules. For the above reasons, Allegiance respectfully requests that the Commission deny BellSouth's Application for Section 271 authority to provide in-region, interLATA service in Georgia.

Respectfully submitted,



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<sup>11</sup> *Id.*